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IN THE UNITED STATES DISTRICT COURT

IN AND FOR THE DISTRICT OF ARIZONA

Jill Libretti, a married woman,

Plaintiff,

v.

QuikTrip Corporation, a foreign
corporation; John and Jane Doe I through X,
fictitious individuals; ABC Corporation and
Partnerships, I-X, fictitious entities,

Defendants.

NO.

PETITION FOR REMOVAL

Defendant QuikTrip Corporation (hereinafter collectively referred to as “Defendant”), by and through undersigned counsel, respectfully files this Petition for Removal and Notice of Removal of Maricopa County Superior Court Case No. CV2022-002260, from the Superior Court of the State of Arizona, Maricopa County, to the United States District Court for the District of Arizona, and in support thereof says as follows:

1. A civil action seeking to recover money damages has been commenced by Plaintiff Jill Libretti and is now pending in the Maricopa County Superior Court in and for

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1 the State of Arizona, captioned *Jill Libretti v. QuikTrip Corporation, et.al.*, Maricopa
2 County Superior Court Case No. CV2022-002260 (“the State Action”).

3 2. Plaintiff’s Complaint in the State Action was filed on February 24, 2022. A
4 true and correct copy of the Complaint filed by Plaintiff in the State Action is attached
5 hereto as Exhibit “A” and incorporated herein by reference. Plaintiff seeks damages
6 related to Defendants’ alleged conduct in the maintenance of its premises. *See* Exhibit “A”
7 at 7.

8 3. Plaintiff’s Complaint was served on Defendant via personal service on
9 March 9, 2022. *See* Affidavit of Service, which is attached hereto as Exhibit “B.” The
10 Complaint was filed contemporaneously with the Summons, the Civil Cover Sheet, and
11 the Certificate of Compulsory Arbitration. A true and correct copy of the Summons is
12 attached hereto as Exhibit “C.” A true and correct copy of the Civil Coversheet is not
13 attached to this Petition. Defendant attempted to get a true and correct copy of the Civil
14 Coversheet but was unable to obtain one as the document is listed as
15 “Restricted/Confidential” with the Maricopa County Superior Court. A true and correct
16 copy of the Certificate of Compulsory Arbitration is attached hereto as Exhibit “D.” To
17 date, Defendant is not aware of any other pleadings filed in the State Action.

18 4. Pursuant to L.R. 3.6(b), Defendant certifies that Exhibits “A” through “D” are
19 true and correct copies of all documents filed in the State Action. A true and correct copy of
20 the state court docket is attached hereto as Exhibit “E.”¹

21 5. Pursuant to L.R. 3.6(b), Defendant has also attached to this Petition for
22 Removal the Supplemental Cover Sheet which it will file contemporaneously with this
23 Petition for Removal.

24
25 ¹ Defendant has not yet filed an Answer in state court. Pursuant to Federal Rule of Civil
26 Procedure 81(c)(2)(C), Defendant will file its Response to Plaintiff’s Complaint within
seven (7) days of this Petition for Removal. Accordingly, Defendant will file its Response
to Plaintiff’s Complaint on or before April 5, 2022.

1 6. Upon information and belief, at all material times in this lawsuit, Plaintiff
2 resided in Maricopa County, State of Arizona. *See* Exhibit “A” at ¶ 1.

3 7. Upon information and belief, at all material times in this lawsuit, Plaintiff was
4 and is a citizen of the State of Arizona. *Id.* at ¶ 1.

5 8. To determine a natural person’s state of citizenship, the Court looks to
6 domicile, which includes looking at where the person’s permanent home is, which is
7 where the person “resides with the intention to remain.” *Kanter v. Warner-Lambert Co.*,
8 265 F.3d 853, 857 (9th Cir. 2001). This case involves an accident that occurred in Arizona
9 after which Plaintiff sought treatment in Arizona. Plaintiff has alleged in her Complaint
10 that, at all relevant times in this lawsuit, she resided in Maricopa County, State of
11 Arizona. *See* Exhibit “A” at ¶ 1. Therefore, Plaintiff is a citizen of Arizona.

12 9. In cases where entities rather than individuals are litigants, diversity
13 jurisdiction depends on the form of the entity. *Johnson v. Columbia Properties*
14 *Anchorage, LP*, 437 F.3d 894, 899 (9th Cir. 2006). A corporation is a citizen of (1) the
15 state where its principal place of business is located, and (2) the state in which it is
16 incorporated. *Id.* An LLC “is a citizen of every state of which its owners/members are
17 citizens.” *Id.*

18 10. Defendant QuikTrip Corporation is a corporation organized under the laws
19 of the state of Oklahoma with its principal place of business located in Oklahoma.
20 Therefore, Defendant QuikTrip Corporation is not a citizen of Arizona.

21 11. This is a civil action over which this Court has original jurisdiction under
22 the provisions of 28 U.S.C. § 1332, and may be removed to this Court by Defendant
23 pursuant to the provisions of 28 U.S.C. § 1441(b) because it is a civil action between
24 citizens of different states and the matter in controversy herein exceeds the sum of
25 \$75,000, exclusive of interest and costs.

26 12. In this action, Plaintiff seeks to recover monetary damages that she claims

1 are due and owing as a result of QuikTrip's alleged conduct in purportedly not
2 maintaining the area where she slipped and fell at a QuikTrip location. *Id.* at ¶¶ 8-16. As a
3 result of this accident, Plaintiff alleges that she suffered physical injuries that required
4 medical treatment. *Id.* at ¶ 17. Plaintiff also claims that her physical injuries will require
5 future medical treatment. *Id.* at ¶ 18. Further, Plaintiff is also claiming additional damages
6 for pain, suffering, anxiety, apprehension and nervousness. *Id.* at ¶ B.

7 13. Prior to litigation, Plaintiff submitted a demand for the injuries she claims
8 resulted from her fall at QuikTrip in the amount of \$128,000.00. In that demand, Plaintiff
9 claimed to have incurred more than \$49,000.00 in medical expenses. In addition to
10 medical expenses, Plaintiff also claims to have sustained pain and suffering, disability,
11 disfigurement, anxiety, and frustration and that she will continue to suffer injury and
12 damage in the future. *Id.* at ¶¶ 18, 19.

13 14. Additionally, Plaintiff has certified that the case is not subject to compulsory
14 arbitration, meaning that Plaintiff views the case as having a value in excess of
15 \$50,000.00, **excluding interest and costs.** *See* Exhibit "D"; *see also Ansley v. Metro Life*
16 *Ins. Co.*, 215 F.R.D. 575, 576-78 (D. Ariz. 2003) (holding that a Certificate Regarding
17 Compulsory Arbitration is a concession of the claimed value of a case for purposes of
18 determining whether the jurisdictional minimum has been satisfied).

19 15. In light of Plaintiff's demand in the amount of \$128,000.00, and in light of
20 Plaintiff's certification that her damages, exclusive of interest and costs, exceed \$50,000.00,
21 it is clear that the amount in controversy exceeds the jurisdictional minimum in this Court,
22 which is \$75,000.00. *See Ansley*, 218 F.R.D. at 576-78.

23 16. Accordingly, this civil action, over which this Court has original jurisdiction
24 under the provisions of 28 U.S.C. § 1332, may be removed to this Court by Defendant
25 pursuant to the provisions of 28 U.S.C. § 1441(b) because it is a civil action between
26 citizens of different states, and the matter in controversy herein exceeds the sum of

1 \$75,000.00, exclusive of interest and costs.

2 17. There are no other named defendants in this matter so no additional consent
3 is necessary. *See* 28 U.S.C. § 1446(b)(2)(A).

4 18. This Petition for Removal and Notice of Removal is filed within the
5 appropriate time allowed by the rules of this Court. *See* 28 U.S.C. § 1446(b)(1) and
6 (b)(2)(B) (“Each defendant shall have 30 days after receipt by or service on that defendant of
7 the initial pleading or summons described in paragraph (1) to file the notice of removal.”).

8 19. Pursuant to LRCiv 3.6(a), a copy of the Notice of Removal has been filed
9 with the Clerk of the Superior Court of the State of Arizona, Maricopa County.

10 20. Pursuant to LRCiv 3.6(d), Defendant requests a jury trial, and has indicated
11 the same on the Civil Cover Sheet.

12 WHEREFORE, PREMISES CONSIDERED, Defendant requests that the aforesaid
13 action pending in the Superior Court of Maricopa County, State of Arizona, be removed
14 from that Court to the United States District Court in and for the District of Arizona for
15 trial and determination of all issues, subject to motions pursuant to Rule 12 of the Federal
16 Rules of Civil Procedure.

17 DATED this 29th day of March, 2022.

18 **THE CAVANAGH LAW FIRM, P.A.**

19 By: s/Karen C. Stafford
20 Karen C. Stafford
21 Victoria R. Kelly
22 *Attorneys for Defendant*
23
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25
26

CERTIFICATE OF SERVICE

I hereby certify that on March 29, 2022, I electronically transmitted the attached document to the Clerk's Office using the CM/ECF System for filing and electronic copy to the following party:

Josh A. Valdez
Joseph A. Hoxie
Valdez Law P.L.L.C
323 West Roosevelt Street, Suite 100
Phoenix, Arizona 85003
Attorneys for Plaintiff

s/Cindy Noeding

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